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Attorneys for Defendants
NAPA VALLEY UNIFIED SCHOOL DISTRICT, DAVID BROWN,
KATHLEEN KERNBERGER, MARY MYERS and KATHLEEN
DAUGHERTY

U.S. DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ANNAMARIA M., a minor, by her Next
Friend, ANTOINETTE M.,

Plaintiff,

vs.

NAPA VALLEY UNIFIED SCHOOL
DISTRICT, DAVID BROWN
KATHLEEN KERNBERGER, MARY
MYERS; KATHLEEN DAUGHERTY,
KATHLEEN KERNBERGER, GERARDO
M. (No relation), a minor; OSCAR S., a
minor; Does 1 - 100,

Defendants.

Case No. C03-0101 VRW

**DEFENDANTS NAPA VALLEY UNIFIED
SCHOOL DISTRICT, DAVID BROWN,
KATHLEEN KERNBERGER, MARY MYERS
AND KATHLEEN DAUGHERTY'S EX
PARTE APPLICATION AND ORDER
FURTHER EXTENDING THE TIME TO
RESPOND TO PLAINTIFF'S THIRD
AMENDED COMPLAINT**

Complaint Filed : 1/08/03
1st Amended Complaint Filed : 3/27/03
2nd Amended Complaint Filed : 5/02/05
3rd Amended Complaint Filed : 6/29/06

Defendants Napa Valley Unified School District, David Brown, Kathleen Kernberger,
Mary Myers and Kathleen Daugherty (the "District Defendants") hereby apply for an Order
further extending the time to file and serve a responsive pleading to plaintiff Annamaria M., a
minor, by her Next Friend, Antoinette M.'s Third Amended Complaint for Damages.

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District Defendants previously filed a FRCP 12(b)(6) Motion to Dismiss to plaintiff's Second Amended Complaint, which alleged Federal Civil Rights claims, as well as, supplemental State Law claims. The Court issued its Order on District Defendants' Motion on May 30, 2006, giving plaintiff 30 days in which to amend her Complaint.

Plaintiff filed her Third Amended Complaint on June 29, 2006 at approximately 10:01 pm. District Defendants only became aware of the Third Amended Complaint on Friday, June 30, 2006, right before the long 4th of July holiday weekend. Upon return to the office on July 5, 2006 there were just 2 days remaining to analyze, evaluate and respond to plaintiff's Third Amended Complaint.

By letter dated July 6, 2006, District Defendants met and conferred with plaintiff's counsel setting forth the inconsistencies of plaintiff's Third Amended Complaint and Judge Walker's Order on defendant's Motion to Dismiss. District Defendants advised that they would be seeking Ex Parte an extension of time in which to resolve the inconsistencies, to file the appropriate dismissals, to correct the typographical errors and for the District Defendants to file and serve a response.

Thereafter, District Defendants sought Ex Parte an Order extending their time to file and serve a response to plaintiff's Third Amended Complaint to July 31, 2006, which was granted on July 7, 2006.

By e-mail, plaintiff counsel advised that he would be further amending plaintiff's Complaint, but due to a long running trial, he had not yet been able to do so. Counsel met in person. Plaintiff's attorney was in trial and promised immediate attention to this matter, but was unable to perform. Given plaintiff's intention to further amend the Complaint and the July 31, 2006 deadline for District Defendants to file and serve a response, District Defendants respectfully request that if plaintiff further amends the Complaint, that the Court set a deadline to

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file said amendment and that District Defendants be given an additional 30 days from July 31, 2006, or up to and including August 30, 2006 in which to file a responsive pleading in this matter.

Dated: July 28, 2006

McNAMARA, DODGE, NEY, BEATTY,
SLATTERY, PFALZER, BORGES & BROTHERS LLP

By: 

Thomas G. Beatty
Lisa R. Roberts
Attorneys for Defendants
NAPA VALLEY UNIFIED SCHOOL DISTRICT,
DAVID BROWN, KATHLEEN KERNBERGER,
MARY MYERS and KATHLEEN DAUGHERTY

ORDER

IT IS HEREBY ORDERED that the District Defendants Application further extending the time to file a responsive pleading to plaintiff's Third Amended Complaint is HEREBY GRANTED.

IT IS FURTHER ORDERED that:

1. Should plaintiff further amend the Complaint, plaintiff's Fourth Amended Complaint shall be filed and served no later than August 24, 2006.

2. District Defendants response to plaintiff's Third and/or Fourth Amended Complaint shall be filed and served no later than ~~August 30, 2006~~ September 25, 2006.
~~September 25, 2006~~
District Defendants shall have up to and including ~~August 30~~, 2006 to file and serve a responsive pleading to plaintiff's Third Amended Complaint.

SO ORDERED.

Dated: 8/2, 2006



Honorable Vaughn Walker
US DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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